



25 Sigourney Street
Hartford CT 06106-5032

STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

PS 2000(8)

POLICY STATEMENT

Procedures in Handling Requests for Issuance of Technical Advice Memoranda

PURPOSE: This Policy Statement describes the current procedures under which a taxpayer or authorized representative may request the issuance of a technical advice memorandum and the current procedures that the Department of Revenue Services (DRS) follows in issuing technical advice memoranda. These procedures remain in force until further notice.

BACKGROUND: DRS has issued technical advice memoranda since 1995. The original procedures for requesting technical advice memoranda were described in **Policy Statement 95(1)**, *Procedures in Handling Requests for Issuance of Technical Advice Memoranda*, and limited the issuance of technical advice memoranda to disputes involving the interpretation of Conn. Gen. Stat. §12-407(2)(i) arising during a field audit examination. In **PS 95(1.1)**, DRS revised and modified **PS 95(1)** by agreeing to issue technical advice memoranda in disputes involving any sales and use tax issues arising during a field audit examination, and by indicating circumstances under which DRS would decline to issue a technical advice memorandum. In **PS 95(1.2)**, DRS revised and modified **PS 95(1.1)** by further agreeing to issue technical advice memoranda in disputes involving admissions, cabaret, and dues tax issues arising during a field audit examination. In each instance, DRS indicated that the policy would remain in force until a particular future date.

EFFECTIVE DATE: Effective upon issuance.

POLICY: The Legal Division of DRS will issue a technical advice memorandum to provide guidance to a taxpayer where a dispute arises during a field audit examination over the interpretation and application of certain Connecticut tax statutes (and regulations under these statutes) that are administered by DRS. (Those

taxes are the sales and use taxes, Conn. Gen. Stat. §12-406 et seq.; the admissions and dues taxes, Conn. Gen. Stat. §12-540 et seq.; and, for taxable periods ending before July 1, 1999, the cabaret tax, Conn. Gen. Stat. §12-542.) The purpose of technical advice memoranda is to ensure that DRS's interpretation and application of Connecticut tax statutes is made clear to the taxpayer during the audit examination so that audit examinations may be concluded more expeditiously.

REQUESTING TECHNICAL ADVICE: A taxpayer may request a technical advice memorandum when there is a lack of guidance on the proper tax treatment of a particular issue or the issue is so complex that it warrants special consideration. A technical advice memorandum may be requested at any time during the audit examination, preferably early in the process. A technical advice memorandum will not be issued after DRS has mailed a notice of assessment to a taxpayer. The following must accompany the request:

1. A **Statement of Facts** should contain all relevant information about the transaction(s) in question. Such facts include:
 - Names, addresses, taxpayer registration numbers, and employer identification or Social Security numbers of all interested parties;
 - The taxable period(s) involved and the amount of tax in dispute, if known; and
 - A carefully detailed description of the transaction.

The taxpayer must attach pertinent documents, but the relevant facts reflected in the documents submitted must be included in the description of the transaction and not merely incorporated by reference. The *statement of facts* must be in the form of an affidavit, under penalties of false statement, and must be signed by an individual who has personal knowledge of the facts, but not by a tax practitioner.

The following individuals must sign the *statement of facts* if the taxpayer is not an individual. If the taxpayer is a:

- **Corporation:** A corporate officer who has legal authority to bind the taxpayer; a person designated by the board of directors or other governing body of the corporation; an officer or employee of the corporation upon written request signed by a principal officer of the corporation and attested by the secretary or other officer of the corporation; or a person who is authorized to receive or inspect the corporation's return or return information under I.R.C. §6103(e)(1)(D).
 - **Partnership or limited liability company:** A member of the partnership or limited liability company during any part of the taxable period or periods to which the *statement of facts* pertains.
 - **Trust or estate:** A fiduciary of the trust or estate.
2. An **Issue Statement** should contain a precise statement of the issue or issues for which a technical advice memorandum is requested.
3. An **Analysis** (for a request by a business or by a tax practitioner, whether or not the client is a business) should contain the taxpayer's analysis of the issue or issues for which the request for technical advice memorandum was made. The *analysis* should include the following elements:
- A detailed and complete statement of relevant law, including a discussion of the implications of any relevant legislation, court decisions, regulations or any declaratory rulings, rulings, Special Notices, Policy Statements, Informational Publications, or Announcements issued by DRS, that the taxpayer finds either in accord with or contrary to the taxpayer's conclusion. If the taxpayer determines that there are no contrary authorities, a statement to that effect must be made.
 - A detailed and complete discussion of the bearing of the relevant facts and legal authorities upon the issue or issues to be resolved.
 - The taxpayer's views of the proper tax results of the transaction, including any relevant authority for these views.

The taxpayer must determine when the time within which DRS may lawfully mail a notice of assessment to the taxpayer ("the statute of limitations") expires. If the statute of limitations expires during the 150-day period after the taxpayer mails the technical advice memorandum to DRS, the taxpayer must execute and include **Form AU-112B, Consent to Extend the Statute of Limitations** (or, for an admissions, cabaret, and dues tax audit, **Form AU-112A**), with the request. This extends the statute of limitations for DRS to mail the notice of assessment to the taxpayer.

The Legal Division will not issue a technical advice memorandum where, in its judgment, clear and adequate guidance concerning the issue already exists. In addition, the Legal Division, in its sole discretion, may deem it inadvisable to issue a technical advice memorandum for other reasons. If the Legal Division decides not to issue a technical advice memorandum for any reason, it will promptly notify the taxpayer.

WHERE TO SEND A TECHNICAL ADVICE MEMORANDUM REQUEST: Send the request to:

**Department of Revenue Services
Attention: Director, Audit Division
25 Sigourney Street
Hartford CT 06106**

PROCESSING REQUESTS: When it receives a request for a technical advice memorandum, the Audit Division will review it for completeness and, with respect to what has been provided, will submit written comments to the Legal Division concerning: (1) its disagreement, if any, with the taxpayer's *statement of facts*, or (2) its disagreement, if any, with the taxpayer's *analysis of the law*.

When it receives the request for a technical advice memorandum and the Audit Division's written comments, the Legal Division may, if the Audit Division has disagreed with the *statement of facts*, send a copy of those comments to the taxpayer and request a reply to those comments within 20 days from the date of the letter. The Legal Division will also independently review the request for completeness. If a request does not fully comply with the requirements set out in this Policy Statement, the Legal Division will send a letter to the taxpayer, identifying the items that must be submitted within 20 days from the date of the letter.

DRS will mail technical advice memoranda within 120 days of receipt of a properly completed request. The Legal Division may extend this 120-day period, in which case the person requesting the memorandum will be notified of the extension and the reason for the extension. Any modification of the request (such as modifying the *statement of facts* in response to written comments from the Audit Division) will begin anew the 120-day period within which the memorandum will be issued.

BINDING EFFECT OF TECHNICAL ADVICE

MEMORANDA: A technical advice memorandum is binding on DRS only with respect to the taxpayer and for the taxable period(s) to which the technical advice memorandum pertains (the audit examination period). A technical advice memorandum is not binding on DRS for the same taxpayer for succeeding taxable periods, and it has no precedential value for any other taxpayer. (The taxpayer to which a memorandum was issued may choose to request the issuance of a ruling for prospective transactions in accordance with **Policy Statement 2000(7)**, *Procedures in Handling Requests for Issuance of Rulings*.) Even with respect to the taxpayer to which the memorandum was issued, the technical advice memorandum is not binding on DRS if there has been a misstatement or omission of material facts in the Statement of Facts.

CONFIDENTIALITY: DRS treats both the request for a technical advice memorandum and the technical advice memorandum as return information, as defined in Conn. Gen. Stat. §12-15(h)(2). Disclosure of return information is prohibited by Conn. Gen. Stat. § 12-15(a).

PS 2000(8)
Miscellaneous
Requests for Technical Advice Memoranda
Issued: 12/15/2000

EFFECT ON OTHER DOCUMENTS: This Policy Statement modifies and supersedes **Policy Statement 95(1.2)**.

EFFECT OF THIS DOCUMENT: A Policy Statement is a document that explains in depth a current DRS position, policy or practice affecting the tax liability of taxpayers.

FOR FURTHER INFORMATION: Please call DRS during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

FORMS AND PUBLICATIONS: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: **www.drs.state.ct.us**
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone.